IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 17917 of 2002

Between:

Akula Pedda Peera E.110757, S/o.A.Pedda Syed,
A.P.S.R.T.C., Rayadurga Depot,
Ananthapur District.

..... PETITIONER

AND

1 The Industrial Tribunal-cum- Labour Court,
Ananthapur.
2 The Depot Manager,
A.P.S.R.T.C., Tadipatri,
Ananthapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records pertaining to I.D.No.222/99 on the file of the Labour Court, Ananthapur and set aside the Award dated 18-4-2002 and its consequential G.O.Rt.No.1317 dt.17.5.2002 in so far as the denying of back wages and continuity of service and deferment of three annual increments with cumulative effect by issuing a writ, order or direction more particularly in the nature of Writ of Certiorari and consequently direct the second respondent to reinstate the petitioner into service with continuity of service and with all benefits.

Counsel for the Petitioner :MR.CHILAMKURI HANUMANTHA RAYUDU

Counsel for the Respondent No.1: G.P. for Labour

Counsel for the Respondent No.2:MR P.VINAYAKA SWAMY

The Court at the admission stage made the following O R D E R:

This Writ Petition is filed questioning the award of the Industrial Tribunal dated 18.04.2002 in I.D.No.222 of 1999, and its consequential G.O. Rt.No.1317, dated 17.05.202, insofar as denying of backwages; continuity of service and imposition of penalty of deferment of three annual increments with cumulative effect.

A regular departmental enquiry was conducted against the petitioner for causing a fatal accident wherein one passenger died and 14 other passengers received grievous injuries. In regular departmental enquiry, the charges levelled against the petitioner were proved. Basing on the enquiry report, the disciplinary authority passed the termination order on 26.05.1999. The appellate and review authorities confirmed the said punishment. Aggrieved by the same, the petitioner raised an industrial Dispute in I.D.No.222 of 1999 before the Tribunal. The Tribunal, considering the fact that the petitioner was acquitted in criminal proceedings, came to the conclusion that termination order is disproportionate and directed the respondent-Corporation to issue fresh appointment to the petitioner without any backwages. It also directed to defer three annual increments with cumulative effect. Insofar as denial of backwages, continuity of service and deferment of three annual increments with cumulative effect, the present writ petition is filed by the petitioner/workman.

Learned counsel for the petitioner contended that taking into consideration the fact that the petitioner was acquitted in the criminal case, the Tribunal ordered to reinstate him as a fresh candidate. The Tribunal ought to have awarded continuity of service as the petitioner has put up long length of service in order to enable the petitioner to get the retirement benefits.

On the other hand, learned standing counsel appearing for the respondents contended that the findings recorded by the enquiry officer are based upon

evidence available on record and that the judgment of the criminal Court is not binding on the department and, therefore, there are no grounds to grant continuity of service and backwages.

A categorical finding has been recorded by the Tribunal that the respondent-Corporation established the charges levelled against the petitioner after due enquiry. Though it is stated by the learned counsel for the petitioner that there is no evidence available on record to show that the accident occurred due to rash and negligent driving, a copy of the enquiry report is made available to this Court, though it is not for this Court to re-appreciate evidence, the enquiry report can be looked into to ascertain whether the findings are based upon any evidence. There is evidence to show that at the time of accident, the opposite vehicle was coming on its left side and the bus being driven by the present petitioner went and dashed against the bus, which was going on left side. Therefore, the petitioner was negligent in driving the vehicle. Hence, the findings cannot be said to be perverse or contrary to the evidence on record. It is also contended by the learned counsel for the petitioner that the log book of the vehicle was not produced by the respondent-Corporation and due to mechanical defects, the accident has occurred. This Court is unable to accept the said contention. The plea of the petitioner that the Corporation has not produced log book and the accident occurred due to mechanical defects cannot be accepted. It is for the petitioner to prove by calling for the log book from the competent authority. It is not a denial of opportunity to summon the concerned authority or it is not a case where principles of natural justice are violated.

The Tribunal, recorded a finding that the respondent-Corporation established the charges levelled against the petitioner after due enquiry. That finding cannot be shown to be perverse or contrary to the material on record since no challenge is made with regard to the manner of conducting departmental enquiry and denial of opportunity to the petitioner, and, hence, the findings of the Tribunal can be accepted.

The only ground on which the Tribunal took a lenient view is that the petitioner was acquitted in a criminal case. There cannot be any dispute that acquittal of a person in a criminal case is not binding on the department because the standard of proof is required to be established in the criminal case and the departmental proceedings are not the same. Therefore, acquittal is not

a ground to challenge the proceedings of the disciplinary authority. The Tribunal took a lenient view in directing the respondent-Corporation to issue fresh appointment to the petitioner after due medical test. If the accident that was committed by the petitioner was the first accident, denying continuity of service would be disproportionate. However, the Tribunal observed that the past record of the petitioner was very bad whereunder on eight occasions, recoveries were made for causing damages to the service vehicles. In such view of the matter, since the Tribunal has already taken a lenient view, the petitioner is not entitled for any backwages and continuity of service.

Having regard to the punishment imposed by the Tribunal to appoint the petitioner as fresh candidate, he lost all his benefits such as continuity of service, backwages etc., Therefore, further, punishment of deferment of three annual increments would be unjustified. Hence, that part of punishment is set aside.

With the above modification, the writ petition is disposed of. No costs.

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13.06.2005

usd

To

1 The Industrial Tribunal-cum- Labour Court,
Ananthapur.

2 The Depot Manager,
A.P.S.R.T.C., Tadipatri,
Ananthapur District.

3 Two CD copies.